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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,302	09/29/2000	Richard Robb	1010/202	1774

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LIU & LIU  
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EXAMINER

BASHORE, ALAIN L

ART UNIT PAPER NUMBER

1762

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/677,302	<b>Applicant(s)</b> ROBB ET AL.	
	<b>Examiner</b> Alain L. Bashore	<b>Art Unit</b> 1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 13-19 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-12, 20-24 and 26 is/are allowed.
- 6) ☒ Claim(s) 1-7, 13-19, 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-7, 13-15, 17-19, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (6,085,169 with priority to CIP - now patent 5,794,207) in view of Nymeyer.

Walker et al discloses services requested by a buyer utilizing the Internet (as CPOs), where a broker is disclosed and also where bidders are sellers of services (col 2, lines 35-45). The buyer is disclosed as maybe limiting the number of bids to be considered at an auction because of tradeoff (col 2, lines 50-65). A number of bids are made available to bidders, the buyer is notified of the bids, and the buyer selects a bidder (fig 15). Walker et al appears to disclose a buyers rating (col 3, lines 30-40).

Walker et al does not explicitly describe his system as an "auction".

Nymeyer discloses auctioning CPOs (col 2, lines 4-15).

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It would have been obvious to one with ordinary skill in the art to include CPOs as part of an auctioning process because Nymeyer teaches the importance of price determination (col 1, lines 30-50) and Walker et al discloses CPOs.

3. Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al in view of Nymeyer as applied to claims above, and further in view of Saito et al.

Walker et al in view of Nymeyer does not disclose the service request as for print services.

Saito discloses print services as a commodity (col 3, lines 40-46).

It would have been obvious to one with ordinary skill in the art to include the service request as for print services Saito teaches that printing services is one type of commerce (col 3, lines 40-46).

***Allowable Subject Matter***

4. Claims 8-12, 20-24, 26 allowed.

***Response to Arguments***

5. Applicant's arguments filed 9-19-06 have been fully considered but they are not persuasive.

The rejection is described as Walker et al not disclosing an auction, but disclosing buyer driven bidding. The secondary reference to Nymeyer is combined for the modification of Walker et al to utilize auctioning. The use of Nymeyer is utilized for the deficiency of a non-auctioning process per se.

Regarding swearing behind Walker et al, please note that the priority date is the parent case to U.S. Patent 6,085,169 which is U.S. Patent 5,794,207.

U.S. patent 5,794,207 has a filing date of September 4<sup>th</sup>, 1996. A copy of 5,794,207 is made of record.

**6. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 571-272-6739. The examiner can normally be reached on about 7:30 am to 5:00 pm (Mon. thru Thurs.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alain L. Bashore  
Primary Examiner  
Art Unit 1762